19[illegible]

C. F. 7a

Department of [illegible]

OFFICE Board of Rs

STATION Lucknow

No.	2822
Dated	22-12-[illegible]

To whom sent		Date	Initial.
	Given for copying		
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	Examined		
	Signed		
	Given for despatch		
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	Indexed		
Pages in the file	To be destroyed on.		

(SUBJECT.)

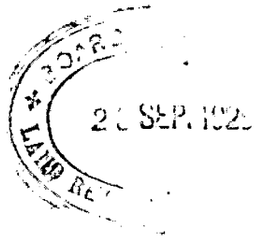
Co (S. Kanara) - Appl'n - As. 359, 4- Cochan
- Possession of properties and Collr of Resne proceedings
Judgment & decree communicated

* Not to be filled in the case of permanent records.

A5645

Government Pleader's Office,
High Court,
Madras, 23rd September '25.

No.



From

M.R.Ry.,
C.V. Anantakrishna ayyar avl.,
Ag. Government Pleader,
M a d r a s.

To

The Second Secretary to Government of Madras,
Revenue Department,
Fort Saint George, Madras.

Sir,

A.S. No. 259 of 1921 on the file of the High Court - South Kanara District

With reference to G.O. No. 773 Home (Judicial), dated the 20th March 1920 and G.O. Mis. No. 2255, Revenue, dated the 14th September 1920, I have the honour to report as follows:-

Certain properties belonging to an Aliasantana family in South Kanara was claimed by Government as escheat. The last of the members of the family died in 1876 The Government commenced escheat proceedings once before and dropped the same in 1905. In 1910, however, the Government reconsidered the matter and declared the property as escheated to the Government on failure of heirs. The original suit was instituted by the Secretary of State for India in Council in the Subordinate Judge's Court at South Kanara to recover possession of 3 items of properties. The Subordinate Judge dismissed the suit holding that the Government had not proved the

the absence of all heirs to the deceased owner; he also held that the suit was barred by limitation. ~~On~~ The appeal preferred by the Government, Appeal No. 259 of 1921 was heard on 27th, 28th and 31st of August and the 3rd of September 1925 and judgment was delivered to-day. The Court held that Government had established *prima facie* that there were no heirs left by the deceased owner and that the defendants had not let in any evidence as against the evidence adduced by the Government. In the circumstances, the High Court reversed the findings of the Subordinate Judge and held that the properties ~~were~~ escheated ~~Mulgeni~~ to Government for want of heirs. As regards item 2, the High Court agreed with the Subordinate Judge ~~and~~ that the said properties had been granted on Mulgeni, long before the death of the last holder and that the right of the family to contest the Mulgeni was barred by limitation and consequently the Government could not recover that item. The High Court also decided that the defendants were not entitled to value of the improvements effected by them prior to 1905. But as the Government had offered in the plaint to pay for improvements effected after the escheat proceedings were first dropped by the Government, the High Court decreed in favour of the defendants the value of the improvements effected after 1905. The High Court also decided that the Government were entitled to mesne profits on the properties decreed. Proportionate costs also were decreed.

As the decision is substantially ~~is~~ in favour of the Government ~~except~~ except as regards item 2 and as the decision of the High Court as regards item 2 concurring as it does with the finding of the Subordinate Judge seems to be correct,

I

I am of opinion that no further steps need be taken in respect of item 2.

I have the honour to be,

Sir,

Your most obedient servant,

Sd. C.V. Anantakrishna ayyar.

Ag. Government Pleader.

No. 753.

Copy communicated to the Secretary to the Board of Revenue, Land Revenue and Settlement, with reference to B.P. No. 830 (Mis.), dated the 19th July 1921, with records returned.

,, ,, to the Collector of South Kanara, for information, with reference to his letter A3-4471-21, dated 13-5-1925.

Madras, 23rd September '25.

Ag. Government Pleader.

5731/25 4

Revenue Department.

4.

Escheat - South Kanara - A.S.No.259 of 1921 - High Court - From the Government Pleader, No.752, dated 23-9-1925.

P/1-2 Cf.

Endorsement:-No.1253 A/25-1, dated 29th September 1925.

Referred to the Board of Revenue for very early remarks.

E. W. L e g h,
Second Secretary.

To the Board of Revenue, Land Revenue and Settlement.

F o r w a r d e.d.

(By Order)

Superintendent.

N.J.29-9-1925.

5

Subject

R. F. XXII-A-19.—18,003—12-12-24.

~~FOR MEMBER~~

Suits (S Kanara) - High Ct - AS. 259 of 1921 - Escheat

Result - Communicated.

READ AGAIN B.P No. _____ dated _____ 192 .

" " " _____ " _____ 192 .

READ ALSO :—

Register No A 5645/25 ~~From the~~ _____, No. _____, dated _____ 192

" " _____ " " _____ " _____ " _____ 192

" " _____ " " _____ " _____ " _____ 192

RESOLUTION. A No. 5645-25-1, dated 7.10. 1925.

The Court Reader, Madras is requested to obtain and forward at an early date ~~certified~~ certified Copies of the Judgment and decree in AS. 259/21 on the file of the High Court, Madras.

2 The Collector of S Kanara is requested to arrange for the collection of costs awarded to Govt as soon as possible after receiving the certified copies of the judgment and the decree in the case.

To the H.C. Madras (Para 1 only)

To the Coll. of S Kanara (Para 2 only)

with record etc.

Desp. SW 11.10.25

SW 7/10

6/10

7.10

Suits- (South Kanara)- High Court- A.S. 259/21- Escheat- Result- Communicated- Board's remarks submitted.

A Regr. No. 5731/25 — Q

Reference.- A5645-25-2 dy 29.10.25

The appeal referred to in Govt. Pleader's letter No. 752 dated 23-9-25 relates to the property declared escheat in G.O.No. 2317 Revenue dated 10-10-1916.

2. In pursuance of the orders in para. 2 of the above G.O. a suit was filed in the Court of the Subordinate Judge of South Kanara for the recovery of possession of the properties declared escheat and for mesne profits. Copies of the plaint and the schedule of properties filed therewith are submitted herewith.

3. The Sub Judge dismissed the suit holding that the Government had not proved the absence of all heirs to the deceased owner and that in the case of item 2 in the schedule of properties the suit was barred by limitation.

4. After taking the advice of the then Govt. Pleader, Madras, the Board sanctioned the filing of an appeal against the Sub Judge's judgment.

5. The Government Pleader reports that Government have succeeded in the

appeal except in regard to item 2 in the schedule of properties.

As regards the excepted item, the High Court ~~seems to~~ have agreed with the Sub Judge that the properties referred to therein had been granted on Mulgeni long before the death of the last holder and that the right of the family to contest the Mulgeni was barred by limitation and consequently Government could not recover that item.

6. The mulgeni referred to in the above paragraph is clearly the one referred to in paragraph 4 of the Collector's recommendation in Col.12 of the application for declaring the property escheat printed at page 3 of G.O. 2317 Revenue dated 10-10-1916. That the date of the Mulgeni as given in this application, namely 1882, ~~it~~ is ~~clearly~~ a mistake for 1862 is seen from the translation of the Tahamanna which is found printed on page 4 of the G.O. From paragraph 3 of the remarks it is seen that the last legal owner of the property died in 1876. The lease had thus run for 14 years ~~by~~ at the time of the death of the last owner, and a suit even by that ~~legal~~ owner would then have been barred under article 144 of the First schedule to the Limitation Act IX of 1908. As Govt. can claim only through the last legal owner their right ~~also should be considered~~ is similarly barred.

At the time of filing the appeal

8 -3-

~~also~~, the Government Pleader, Madras pointed out that ~~Govt's~~ the Govt's case in regard to ~~this~~ item 2 was weak but as there was a certain amount of evidence to support the argument that the Mulgenis ~~were not intended to be given effect to~~ there was no intention to give effect to, he suggested the addition of a ground with reference to item 2 also. It is not known whether this point was considered by the High Court as the copy of the judgment has not yet been received but it does not appear to be material in view of the point of limitation.

In these circumstances the Board agrees with the Govt. Pleader, Madras, that no further steps need be taken in the matter.

To the Second Secretary to Govt. with ~~with copies of the plaint & schedule and~~ Govt. Pleader's opinion at pages 4-5 Y.&M.

BOARD OF REVENUE
18 NOV. 1925
LAND REVENUE & SETTLEMENT

9 A6878

GOVERNMENT OF MADRAS

Revenue Department.

MEMORANDUM No. 3610.E/25-1 dated 13th November 1925.

Suits - South Kanara - High Court - A.S. 259-21 - Escheat - Board's Reference No. A.5645-25-2 dated 29th October 1925. 16 Cy.

The Board of Revenue is requested to state whether possession of the escheat properties decreed to Government in A.S.No.259/21 on the file of the High Court has been taken and whether the mesne profits have been collected. If not already done, the Board is requested to take early steps towards the execution of the decree.

A. D. Crombie.
Under Secretary to Government.

To the Board of Revenue (Land Revenue and Settlement).

F o r w a r d e d.
(By Order)

B. S. Bourneau
Superintendent. 17/11/25

DNI.

R. 20.12.25

Subject.— W.

R. F. XXII-A-19.—18,003—12-12-24

~~FOR MEMBER~~

Suits (S. Kanara) — High Ct — A.S. 259/21 — Escheat — possession of properties & Collection of mesne profits

READ AGAIN B.P No. _____ dated _____ 192

" " " _____ " _____ 192

READ ALSO :—

P&Cy. Register No. A6878, From the Dr. _____, No. _____, dated _____ 192

" " _____ " " _____ " _____ " _____ 192

" " _____ " " _____ " _____ " _____ 192

~~RESOLUTION.~~ A56 Cos 25—3 No. _____, dated 20-11- 1925

The Collector of S. Kanara is requested to report whether possession of the escheat properties decreed to Govt in A.S. 259, 21 on the file of the High Ct has been taken and whether the mesne profits have been Col^d

2. The Board has no information on the points referred to in the 8th Paragraph of the Govt. memo. read above. ~~The Collector~~ The Collr has been asked to report on the ~~points on the~~ Board will submit its report on receipt of the Collr's reply

11

3. The Govt. Pleader Madras has been requested to obtain and forward at an early date certified copies of the Judgment and the decree in the case. On receipt of these copies the Board will if necessary, direct the Collector to take early steps for the execution of the decree. Report thereof from the Govt. Pleader, Madras.

4. In continuation of B&S Report A 5245-25-1 dt. 7.10.25 the Govt. Pleader Madras is requested to expedite the transmission of the certified copies of the Judgment and the decree in A.S. 254/21 on the file of the High Ct.

Do the Govt. Pleader Madras

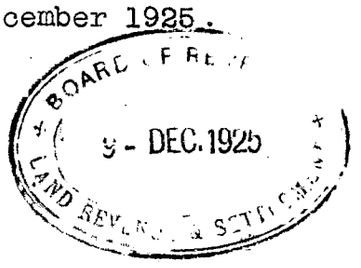
Do the Govt. Secy to Govt Public Works Dept

12 A 25

Government Pleader's Office,

No. 1043. High Court,

Madras, 8th December 1925.



From

M.R.Ry.,

C.V. Anantakrishna ayyar avl.,

Ag. Government Pleader,

M a d r a s.

To

The Secretary to the Board of Revenue,

Land Revenue & Settlement, Chepauk.

Sir,

Rs 10 Cf

In reply to Board's Reference A. No. 5645-25-3, dated the 20th November last, I have the honour to forward herewith certified copies of decree and judgment in A.S. No. 259 of 1921 on the file of the High Court and to request that the Board will be pleased to instruct the Collector of South Kanara to send me a Remittance Transfer Receipt for Rs.674-15-10 being the fee for my appearance in the case deducting therefrom incometax at the rate of 9 pies in the rupee. A stamped receipt for the amount is herewith sent.

I have the honour to be,

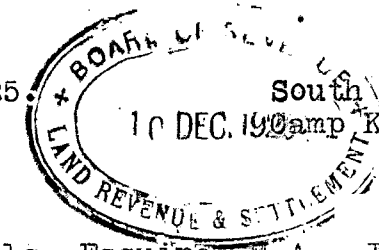
Sir,

Your most obedient servant,

C.V. Anantakrishna ayyar

Ag. Government Pleader.

Ref.on A3-4471-25.



57

South Kanara Collector's Office,
Camp Kasargod, 4th December 1925.

From

G. W. Wells, Esquire, M.A., I.C.S.,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue,
M a d r a s.

Sir,

Suits (South Kanara) - High Court - A.S.No.259/21 - Escheat possession of properties and collection of mesne profits.

Board's Reference No.A.5645-25-3 dated 20th November 1925.

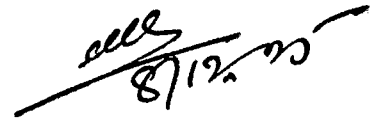
****

As the copies of the High Court's judgment and decree have not yet been received from the Government Pleader, Madras, it has not been possible to take any steps towards recovering possession of the escheat properties or collection of mesne profits.

Your obedient servant,

For Collector.

M.D'S.8/12.



R. F. XXII-A-19.—18,003—12-12-24.

Subject.—

FOR MEMBER

Suits (S. Kanara) - High Ct - A.S. 259/21 - Escheat - ~~Adjudication~~ - Possession of properties and Collr of Mysore Props — Judgment & Decree Communica

READ AGAIN B.P No. _____ dated _____ 192

" " " _____ " " _____ 192

READ ALSO :—

Cf. Register No A 7251/25 From the _____, No. _____, dated _____ 192

A 7272/25 } A

Cf. " " _____ " " _____, " _____, " _____ 192.

" " _____, " " _____, " _____, " _____ 192

RESOLUTION. (Mis) No 2824, dated 22 12 192

Certified copies of the Judgment and decree in A.S. 259 of 1921 on the file of the High Court are communicated to the Collector of S. Kanara who is requested to take early steps for the execution of the Decree and the collection of the Costs awarded to Govt

2. He is also requested to send direct to the Govt Pleader Madras a R.T.C. for Rs 674-15-Lopi less ~~4 pies in the Rupee towards~~ incr

2 Ref. Rate of 9 pies in the rupee towards his fee in case. His receipt for the amount is enclosed.

3. With reference to Govt Memo Ramdrug No. 3610 E-25-1 dated 13-11-25 and in continuation of Board's Rc. No. A 5045-25-3 dated 20-10-25 the Board submits that the Collector has reported that as the copies of the High Ct's judgment and decree in the case had not been received by him it was not possible for him to take steps for recovering possession of the property and collecting mesne profits. They are now being forwarded to him and he is being requested to take early steps for the execution of the decree and the collection of the costs awarded to Govt.

Do (for 21-11-25) Dp 19/12 (Tm) 21/12 W 21/12/25

Do to the Collr of S Kanara with copies of judgment decree & receipt (Para 1st only)

Do to the Second Secy to Govt (Para 3 only)

Cons to the Govt Pleader Madras (Paras 2 only)

M 13-56 Gf

C. F. 17—2-14

Mis
S
A.S.

OFFICE NOTE.

Subject.

Suits (S. Kanara) - High Ct. A.S. 259/21 - Escheat - possession of properties and collection of mesne profits. Judgment & decree.

From

p12 Cf. A Register No. 7251/25
p57 Cf. A 7272/25

To the asst. Secy.

The Govt Pleader Madras has sent certified copies of the Jt and the decree in A.S. 259 of 1921 on the file of the High Ct they may be forwarded to Collector and he may be requested to take early steps for the execution of the decree and the collection of costs awarded to Govt.

2. With reference to Govt memorandum No 3610 E/25-1 dated 13.11.25 and in continuation of BS's Rcpt A 5645-25-3 & 20.11.25 Govt may be informed that the Collr has reported that as the copies of the High Ct's judgment and decree had not been received by him it was not possible for him to take steps for the recovering possession of the escheat properties & collection of mesne profits and that they are now

p9 Cf.
p10 Cf.
p57 Cf.

Page No._____

now being communicated to him with instructions to take early steps for the execution of the decree

3. The Govt. Pleader claims a fee of Rs 674-15- This is the Regulation fee in the case calculated on the value of the appeal as entered in Govt appeal memo namely. Rs 32,499-9-7. The Govt Pleader is entitled to this under B.O 97 Para 1 sub para 2 and may be sanctioned. Though Govt have been granted only proportionate costs including a pleader's fee of Rs 606-3-9 and stand to pay the respondent Rs 287-7-1 as pleader's fees.

4 A draft is accordingly submitted for approval

P 17 P

I P 240 Vol I

H 17-18 Cf.

Issue